

1
2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 BRIAN EUGENE LEPLEY,
7 Plaintiff,

8 v.

9 STATE OF NEVADA, et al.,
10 Defendants.

Case No. 2:16-cv-02848-RFB-DJA

ORDER

11
12 Presently before the Court is Defendant's Motion to Stay Discovery (ECF No. 80), filed
13 on November 14, 2019. Also before the Court is Plaintiff's Motion to Hold in Abeyance
14 Defendant's Motion to Dismiss (ECF No. 77), filed on October 25, 2019, Motion to Compel
15 Discovery (ECF No. 82), filed on November 21, 2019, and Motion for Leave to File Exhibits to
16 Motion to Compel (ECF No. 86), filed on December 11, 2019. The Court also considered the
17 response and reply briefing associated with the above Motions. (ECF No. 79, 81, 83, 84, 85, and
18 87).

19 Courts have broad discretionary power to control discovery. *See, e.g., Little v. City of*
20 *Seattle*, 863 F.2d 681, 685 (9th Cir.1988). In deciding whether to grant a stay of discovery, the
21 Court is guided by the objectives of Rule 1 to ensure a just, speedy, and inexpensive
22 determination of every action. *See Kidneigh v. Tournament One Corp.*, 2013 WL 1855764, at *2
23 (D. Nev. May 1, 2013). "The Federal Rules of Civil Procedure do not provide for automatic or
24 blanket stays of discovery when a potentially dispositive motion is pending." *Tradebay, LLC v.*
25 *eBay, Inc.*, 278 F.R.D. 597, 600 (D. Nev. 2011). However, preliminary issues such as
26 jurisdiction, venue, or immunity are common situations that may justify a stay. *See Twin City*
27 *Fire Ins. v. Employers of Wausau*, 124 F.R.D. 653 (D. Nev. 1989); *see also Kabo Tools Co. v.*
28 *Porauto Indus. Co.*, 2013 WL 5947138, at *1 (D. Nev. Oct. 31, 2013) (granting stay based on

1 alleged lack of personal jurisdiction); *Ministerio Roca Solida v. U.S. Dep’t of Fish & Wildlife*,
2 288 F.R.D. 500, 506 (D. Nev. 2013) (granting stay based in part on alleged lack of subject matter
3 jurisdiction). Further, motions to stay discovery pending resolution of a dispositive motion may
4 be granted when: (1) the pending motion is potentially dispositive; (2) the potentially dispositive
5 motion can be decided without additional discovery; and (3) the Court has taken a “preliminary
6 peek” at the merits of the potentially dispositive motion to evaluate the likelihood of dismissal.
7 *See Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev. 2013).

8 A party seeking to stay discovery pending resolution of a potentially dispositive motion
9 bears the heavy burden of establishing that discovery should be stayed. *See, e.g., Turner*
10 *Broadcasting System, Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997) (noting that a
11 stay of discovery may be appropriate where the complaint was “utterly frivolous, or filed merely
12 for settlement value.”); *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975). When
13 deciding whether to issue a stay, a court must take a “preliminary peek” at the merits of the
14 dispositive motion pending in the case. *Tradebay*, 278 F.R.D. at 602-603. In doing so, a court
15 must consider whether the pending motion is potentially dispositive of the entire case, and
16 whether that motion can be decided without additional discovery. *Id.* This “preliminary peek” is
17 not intended to prejudge the outcome, but to evaluate the propriety of a stay of discovery “with
18 the goal of accomplishing the objectives of Rule 1.” *Id.* (citation omitted). That discovery may
19 involve inconvenience and expense is not sufficient, standing alone, to support a stay of
20 discovery. *Turner Broadcasting*, 175 F.R.D. at 556. An overly lenient standard for granting
21 requests to stay would result in unnecessary delay in many cases.

22 After taking a preliminary peek at the pending Motion to Dismiss (ECF No. 70), the Court
23 finds that Defendant has carried its heavy burden of establishing that discovery should be stayed.
24 The issues before the Court in the pending Motion to Dismiss do not require further discovery as
25 the Motion has been fully briefed and if granted, this case may be dismissed in its entirety.
26 Additionally, discovery is expensive and resolving issues of immunity at the earliest possible
27 stage of litigation is important. As such, the Court finds this is a case where a temporary stay of
28 discovery will further the goal of judicial economy. The Court will therefore deny Plaintiff’s

1 Motion to Compel (ECF No. 82) and Motion for Leave to File Exhibits in Support of the Motion
2 to Compel (ECF No. 86) as moot given that discovery is stayed. Similarly, the Court does not
3 find it warranted to hold the Motion to Dismiss until after a meet and confer can be conducted
4 with Plaintiff as requested by Plaintiff's Motion (ECF No. 77). Therefore, the Court will likewise
5 deny that Motion in order for it to expeditiously decide this matter on the merits.

6 IT IS THEREFORE ORDERED that Plaintiff's Motion to Hold in Abeyance Defendant's
7 Motion to Dismiss (ECF No. 77) is **denied**.

8 IT IS FURTHER ORDERED that Defendant's Motion to Stay Discovery (ECF No. 80) is
9 **granted**.

10 IT IS FURTHER ORDERED that Plaintiff's Motion to Compel Discovery (ECF No. 82)
11 is **denied as moot**.

12 IT IS FURTHER ORDERED that Plaintiff's Motion for Leave to File Exhibits to Motion
13 to Compel (ECF No. 86) is **denied as moot**.

14
15 DATED: December 30, 2019

16
17 
18 _____
19 DANIEL J. ALBREGTS
20 UNITED STATES MAGISTRATE JUDGE
21
22
23
24
25
26
27
28